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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/692,276

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09/08/2006

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EXAMINER

BONURA, TIMOTHY M

ART UNIT

PAPER NUMBER

2114

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/692,276	Applicant(s) JOHANSSON ET AL.	
	Examiner Tim Bonura	Art Unit 2114	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/1/05, 5/10/04, 2/6/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 3 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Regarding claim 3, which is dependent upon claim 2, a verification time is given of 15 milliseconds after first being set as 10 milliseconds in claim 2. This is indefinite and needed to be canceled or corrected.

4. Regarding claim 13, the claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claim 19 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 19 claims a computer program code on which a program is stored and variations thereof. These claims therefore are interpreted as recording a program per se. In order to overcome this rejection, language, specifically stating the claim, must be limited to a computer program stored on a computer recordable medium executing on a computer.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-2, 7-12, and 14-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Puppa, et al, U.S. Patent Number 7,092,361.

9. Regarding claim 1:

a. Regarding the limitation of “detecting a connection fault and accordingly performing a switch-over in data communication in accordance with a set of rules based on Operation and Maintenance data communication principles,” Puppa discloses a system with a switch-over communication network OAM protocol for operating the system. (Lines 21-25 of Column 1).

b. Regarding the limitation of “an interval for sending connectivity verification data information in the data communication is such that a real time based data communication is achievable,” Puppa discloses a system that can send and receive connection information with detect a fault in network elements. (Lines 52-61 of Column 1).

10. Regarding claim 2, Puppa discloses a system send in a CV packet in a set time level as such that recognition of the expiry of the time period results in a fault. It would be inherent to set

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a time at 10 milliseconds for one connectivity verification. (Lines 62-65 of Column 1 and Lines 33-35 of Column 3).

11. Regarding claim 4, Puppa discloses a system that can detect a communication fault upon the expiry of a time interval. It would be inherent to set a time at 50 milliseconds for a detection of a connection fault in the communication system. (Lines 62-65 of Column 1).

12. Regarding claim 5, Puppa discloses a system that can detect a communication fault upon the expiry of a time interval. It would be inherent to set a time at 50 milliseconds for a detection of a connection fault in the communication system. (Lines 62-65 of Column 1).

13. Regarding claim 6, Puppa discloses a system that can detect a communication fault upon the expiry of a time interval. It would be inherent to set a time at 50 milliseconds for a detection of a connection fault in the communication system. (Lines 62-65 of Column 1).

14. Regarding claim 7, Puppa disclose a system wherein the number of missing data packets can be three. (Lines 62-65 of Column 1).

15. Regarding claim 8, Puppa discloses a system with MPLS for real time service. (Lines 18-25 of Column 3).

16. Regarding claim 9, Puppa discloses a system with LPS communications. (Lines 61-64 of Column 3).

17. Regarding claim 10, Puppa discloses a system that is based on OAM procedures. (Lines 1-6 of Column 3).

18. Regarding claim 11, Puppa discloses a system that is MPLS used to communicate between networks. (Lines 36-43 of Column 3).

19. Regarding claim 12, Puppa discloses a system that is MPLS used to communicate between networks. (Lines 36-43 of Column 3).

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20. Regarding claim 14, Puppa discloses a system wherein there are two communication networks each having different and independent internal communication networks. (Lines 65-67 of Column 1 and Lines 1-15 of Column 2).

21. Regarding claim 15, Puppa discloses a system with means for CV packets. (Lines 50-52 of Column 5).

22. Regarding claim 16:

c. Regarding the limitation of "detecting a connection fault and accordingly performing a switch-over in data communication between a source computing device and a sink computing device in accordance with a set of rules based on Operation and Maintenance data communication principles," Puppa discloses a system with a switch-over communication network OAM protocol for operating the system. (Lines 21-25 of Column 1). Puppa discloses a system wherein there are two communication networks each having different and independent internal communication networks. (Lines 65-67 of Column 1 and Lines 1-15 of Column 2).

d. Regarding the limitation of "an interval for sending connectivity verification data information in the data communication is such that a real time based data communication is achievable," Puppa discloses a system that can send and receive connection information with detect a fault in network elements. (Lines 52-61 of Column 1).

23. Regarding claim 17:

e. Regarding the limitation of "detecting a connection fault and accordingly performing a switch-over in data communication between a source computing device and a sink computing device in accordance with a set of rules based on Operation and Maintenance data communication principles," Puppa discloses a system with a switch-

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over communication network OAM protocol for operating the system. (Lines 21-25 of Column 1). Puppa discloses a system wherein there are two communication networks each having different and independent internal communication networks. (Lines 65-67 of Column 1 and Lines 1-15 of Column 2).

f. Regarding the limitation of "means for sending connectivity verification data information in the data communication is such that a real time based data communication is achievable," Puppa discloses a system that can send and receive connection information with detect a fault in network elements. (Lines 52-61 of Column 1).

24. Regarding claim 18:

g. Regarding the limitation of "detecting a connection fault and accordingly performing a switch-over in data communication between a source computing device and a sink computing device in accordance with a set of rules based on Operation and Maintenance data communication principles," Puppa discloses a system with a switch-over communication network OAM protocol for operating the system. (Lines 21-25 of Column 1). Puppa discloses a system wherein there are two communication networks each having different and independent internal communication networks. (Lines 65-67 of Column 1 and Lines 1-15 of Column 2).

h. Regarding the limitation of "means for sending connectivity verification data information in the data communication is such that a real time based data communication is achievable," Puppa discloses a system that can send and receive connection information with detect a fault in network elements. (Lines 52-61 of Column 1).

25. Regarding claim 19:

- i. Regarding the limitation of "detecting a connection fault and accordingly performing a switch-over in data communication between a source computing device and a sink computing device in accordance with a set of rules based on Operation and Maintenance data communication principles," Puppa discloses a system with a switch-over communication network OAM protocol for operating the system. (Lines 21-25 of Column 1). Puppa discloses a system wherein there are two communication networks each having different and independent internal communication networks. (Lines 65-67 of Column 1 and Lines 1-15 of Column 2).
- j. Regarding the limitation of "computer program code for causing the system to send connectivity verification data information in the data communication is such that a real time based data communication is achievable," Puppa discloses a system that can send and receive connection information with detect a fault in network elements. (Lines 52-61 of Column 1).

Conclusion

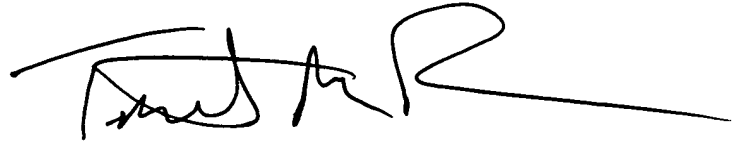
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tim Bonura whose telephone number is 571-272-3654. The examiner can normally be reached on M-F 9:30AM - 6:00PM (Eastern).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman can be reached on 571-272-3644. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tim Bonura
Examiner
Art Unit 2114

A handwritten signature in black ink, appearing to read 'Tim Bonura', with a long horizontal line extending to the right.